

ASSEMBLY BILL

No. 2924

Introduced by Assembly Member Arambula

February 24, 2006

An act to add Section 14075.5 to the Financial Code, to add Section 63029 to the Government Code, to amend Sections 42823 and 42824 of the Health and Safety Code, and to add Sections 17053.97, 17053.98, 17053.99, 17277, 23697, 23698, 23699, and 24349.5 to the Revenue and Taxation Code, relating to environmental protection incentives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2924, as introduced, Arambula. Environmental protection incentives.

Existing law establishes within the Business, Transportation and Housing Agency the California Small Business Loan Guarantee Program, whereby financial development corporations, as provided, loan money to or guarantee loans for small business, as specified. Existing law establishes the California Infrastructure and Economic Development Bank within the Business, Transportation and Housing Agency to make loans and finance infrastructure.

This bill would authorize an economic development corporation to provide loan guarantees for capital expenditures that reduce greenhouse gas emissions or generate renewable energy if certain conditions are met. This bill would state the intent of the Legislature that 20% of the funds annually appropriated for small business loan guarantees be dedicated for these purposes. This bill would also authorize the California Infrastructure and Economic Development Bank to make low-interest loans for equipment that reduces greenhouse gas emissions.

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions and credits used to compute the taxes imposed by those laws.

This bill would authorize credits against those taxes for each taxable year beginning on or after January 1, 2007, for 15% of the amount paid or incurred during the taxable year for qualified capital expenditures and qualified research expenses, as defined, and 10% of the amount paid or incurred during the taxable year for qualified capital investments, as defined. This bill would also allow a taxpayer to take a deduction for depreciation with respect to qualified capital expenditures and qualified capital investments over a 3-year period, as provided.

Existing law establishes the California Climate Action Registry to, among other things, adopt standards for verifying emissions reductions, adopt a list of approved auditors that would verify emission reductions, establish emissions reduction targets, design and implement efficiency improvement plans, and maintain a record of all emission baselines and reductions. Existing law provides that participation in the registry is voluntary, but requires the registry recognize, publicize, and promote entities that participate in the registry.

This bill would require any person or entity that receives a loan guarantee, a low-interest loan, or a tax credit under the bill to register with the California Climate Action Registry and to report its greenhouse gas emissions, as provided. This bill would also require the registry to report to the Legislature annually regarding greenhouse gas emissions, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Energy Independence and Climate Mitigation Investment Act of
- 3 2006.
- 4 SEC. 2. The Legislature finds and declares both of the
- 5 following:
- 6 (a) The increased costs of energy, combined with the physical,
- 7 environmental, and regulatory risks associated with climate

1 change, have resulted in a significant challenge for California
2 businesses.

3 (b) In order for California companies to remain competitive in
4 the global marketplace, it is necessary and appropriate for the
5 state to provide incentives to businesses to reduce greenhouse gas
6 emissions and increase our energy independence.

7 SEC. 3. Section 14075.5 is added to the Financial Code, to
8 read:

9 14075.5. (a) A corporation may provide loan guarantees for
10 capital expenditures that reduce air emissions or generate
11 renewable energy if the corporation determines all of the
12 following:

13 (1) That the loan applicant is creditworthy and meets the
14 underwriting standards otherwise required under the loan
15 guarantee program.

16 (2) That an alternative loan at a market interest rate is not
17 available to the applicant.

18 (3) That state income tax credits do not benefit the applicant in
19 an amount that is sufficient for the applicant to justify the
20 expenditure.

21 (b) The Business, Transportation and Housing Agency, in
22 consultation with the State Air Resources Board and the State
23 Energy Resources Conservation and Development Commission,
24 shall determine whether a capital expenditure meets the
25 requirements of subdivision (a).

26 (c) Notwithstanding any other law, it is the intent of the
27 Legislature that, for each fiscal year beginning before July 1,
28 2012, 20 percent of the funds appropriated for the purposes of
29 this article be used for the purposes described in subdivision (a).

30 SEC. 4. Section 63029 is added to the Government Code, to
31 read:

32 63029. The bank may make loans at interest rates that are
33 below market interest rates if all of the following conditions are
34 met:

35 (a) The loan applicant will use the loan proceeds to purchase
36 or retrofit equipment that will directly result in the reduction of
37 greenhouse gas emissions. The bank, in consultation with the
38 State Air Resources Board and the State Energy Resources
39 Conservation and Development Commission, shall determine
40 whether the equipment meets the requirement of this subdivision.

1 (b) The bank determines all of the following:

2 (1) That the applicant has the ability to repay the loan.

3 (2) That an alternative loan at a market interest rate is not
4 available to the applicant.

5 (3) That state income tax credits do not benefit the applicant in
6 an amount that is sufficient for the applicant to justify the
7 expenditure.

8 SEC. 5. Section 42823 of the Health and Safety Code is
9 amended to read:

10 42823. The registry shall perform all of the following
11 functions:

12 (a) Provide participants with referrals to approved providers
13 for technical assistance and advice, upon the request of a
14 participant, on any or all of the following:

15 (1) Designing programs to establish greenhouse gas emissions
16 baselines and to monitor, estimate, calculate, report, and certify
17 greenhouse gas emissions.

18 (2) Establishing emissions reduction goals based on
19 international or federal best practices for specific industries and
20 economic sectors.

21 (3) Designing and implementing organization-specific plans
22 that improve energy efficiency or utilize renewable energy, or
23 both, and that are capable of achieving emission reduction
24 targets.

25 (4) Designing plans for the conservation and management of
26 native forest reservoirs as a means to assist participants in
27 attaining emission reduction goals and reporting annual
28 emissions results.

29 (b) In coordination with the State Energy Resources
30 Conservation and Development Commission, the registry shall
31 adopt and periodically update a list of organizations recognized
32 by the state as qualified to provide the detailed technical
33 assistance and advice in subdivision (a) and assist participants in
34 identifying and selecting providers that have expertise applicable
35 to each participant's circumstances. The registry shall coordinate
36 with the Department of Forestry and Fire Protection and the State
37 Board of Forestry and Fire Protection to provide referrals to
38 providers for purposes of paragraph (4) of subdivision (a).

39 (c) The registry shall adopt procedures and protocols for the
40 reporting and certification of greenhouse gas emission reductions

1 resulting from a project or an action of a participant. A
2 participant shall report emission reductions as a separate item in
3 its annual emissions results.

4 (d) In coordination with the Resources Agency and consistent
5 with the data and information acquired and developed pursuant to
6 subdivision (b) of Section 25730 of the Public Resources Code,
7 the registry shall adopt procedures and protocols for the
8 monitoring, estimating, calculating, reporting, and certifying of
9 carbon stocks and carbon dioxide emissions resulting from the
10 conservation and conservation-based management, including
11 reforestation, of native forest reservoirs in California in order to
12 permit participants to include the results of those activities as a
13 participant's registered emissions results, or as a part thereof.
14 Procedures and protocols shall require, at a minimum, that those
15 forestry activities meet the following criteria in order to be
16 reported as a participant's emissions results, or as a part thereof:

17 (1) Forestry activities that are reported as a participant's
18 emissions results, or as a part thereof, shall be based on forest
19 management practices within a defined project area that exceed
20 applicable federal, state, and local land use laws and regulations,
21 including, but not limited to, the Z'berg-Nejedly Forest Practice
22 Act of 1973 (Chapter 8 (commencing with Section 4511) of Part
23 2 of Division 4 of the Public Resources Code). Applicable
24 federal, state, and local land use laws and regulations shall be
25 those in effect each time a participant registers a defined project
26 area in the registry.

27 (2) Forestry activities that are reported as a participant's
28 emissions results, or a part thereof, shall occur on forestland that
29 is permanently dedicated to forest use through a restriction,
30 granted in perpetuity, on the use that may be made of real
31 property that is consistent with the conservation purposes listed
32 in Section 170(h)(4)(A)(ii) and (iii) of Title 26 of the United
33 States Code.

34 (3) Forestry activities reported as emissions results, or as a
35 part thereof, shall reflect the amount of time that net carbon gains
36 are stored.

37 (4) Forestry activities maintain and promote native forest
38 types.

1 (5) If emissions results are derived from forest lands
2 undergoing harvest and regeneration, those results are derived
3 from natural forest management practices.

4 (e) Adopt procedures and protocols for certification of
5 reported baseline emissions and emissions results. When
6 adopting procedures and protocols for the certification, the
7 registry shall consider the availability and suitability of
8 simplified techniques and tools.

9 (f) Qualify third-party organizations that have the capability to
10 certify reported baseline emissions and emissions results, and
11 that are capable of certifying the participant-reported results as
12 provided in this chapter.

13 (g) Adopt procedures and protocols, including a uniform
14 format for reporting emissions baselines and emissions results to
15 facilitate their recognition in any future regulatory regime.

16 (h) Maintain a record of all certified greenhouse gas emissions
17 baselines and emissions results. Separate records shall be kept for
18 direct and indirect emissions results. The public shall have access
19 to this record, except for any portion of the data or information
20 that is exempt from disclosure pursuant to the California Public
21 Records Act (Chapter 3.5 (commencing with Section 6250) of
22 Division 7 of Title 1 of the Government Code).

23 (i) Encourage organizations from various sectors of the state's
24 economy, and those from various geographic regions of the state,
25 to report emissions, establish baselines and reduction targets, and
26 implement efficiency improvement and renewable energy
27 programs to achieve those targets.

28 (j) Recognize, publicize, and promote participants.

29 (k) In coordination with the State Energy Resources
30 Conservation and Development Commission and the state board,
31 adopt industry-specific reporting metrics at one or more public
32 meetings.

33 (l) In consultation with the state board, adopt procedures and
34 protocols for the reporting and certification of reductions in
35 emissions of greenhouse gases, to the extent permitted by state
36 and federal law, for those reductions achieved prior to the
37 operative date of the regulations adopted pursuant to subdivision
38 (a) of Section 43018.5.

39 (m) *On or before January 15, 2008, and on or before January*
40 *15 of each year thereafter, report to the Legislature on*

1 *California's progress in meeting its greenhouse gas emission*
2 *standards by registered companies.*

3 SEC. 6. Section 42824 of the Health and Safety Code is
4 amended to read:

5 42824. ~~Participation~~—(a) *Except as provided in subdivision*
6 *(b), participation* in the registry is voluntary, and participants
7 may withdraw at any time. If participants cease, and then resume
8 participation, they will be expected to fill in any interim
9 emissions information or set a new baseline. Any entity
10 conducting business in the state may register its emissions
11 results, including emissions generated outside of the state, on an
12 entity wide basis with the registry, and may utilize the services of
13 the registry.

14 (b) (1) *A person or entity that does any of the following shall*
15 *participate in the registry:*

16 (A) *Receives a loan guarantee under Section 14075.5 of the*
17 *Financial Code.*

18 (B) *Receives a loan under Section 63029 of the Government*
19 *Code.*

20 (C) *Receives a tax credit under Section 17053.97, 17053.98,*
21 *17053.99, 23697, 23698, or 23699 of the Revenue and Taxation*
22 *Code.*

23 (2) *Notwithstanding any other law, a person or entity that is*
24 *required under paragraph (1) to participate in the registry shall*
25 *do both of the following:*

26 (A) *Report its greenhouse gas emissions under either the*
27 *general reporting protocol or a reporting protocol that is specific*
28 *to the industry of the person or entity.*

29 (B) *Have a third party certify any reduction in greenhouse gas*
30 *emissions by the person or entity and require that third party to*
31 *maintain documentation of these emission reductions for at least*
32 *five years.*

33 SEC. 7. Section 17053.97 is added to the Revenue and
34 Taxation Code, to read:

35 17053.97. (a) For each taxable year beginning on or after
36 January 1, 2007, there shall be allowed as a credit against the
37 “net tax,” as defined in Section 17039, an amount equal to 15
38 percent of the amount paid or incurred during the taxable year for
39 qualified capital expenditures.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Qualified capital expenditures” means an engine, boiler, or generator that measurably reduces greenhouse gas emissions from a qualified facility.

(2) “Qualified facility” means both of the following:

(A) An existing facility of the taxpayer.

(B) The expansion of an existing facility of the taxpayer, which expansion is in the same location as, or adjacent to, an existing facility of the taxpayer.

(c) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit is exhausted.

SEC. 8. Section 17053.98 is added to the Revenue and Taxation Code, to read:

17053.98. (a) For each taxable year beginning on or after January 1, 2007, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to 10 percent of the amount paid or incurred during the taxable year for qualified capital investments.

(b) For purposes of this section, “qualified capital investments” means equipment used to produce, generate, or store renewable energy from biomass, solar, wind, and hydrogen sources.

(c) Notwithstanding any other law, a taxpayer that takes the credit allowed by this section shall not be allowed other credits allowed under this part for renewable energy technology, except for the credit allowed by Section 17053.99.

(d) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit is exhausted.

SEC. 9. Section 17053.99 is added to the Revenue and Taxation Code, to read:

17053.99. (a) For each taxable year beginning on or after January 1, 2007, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to 15 percent of the amount paid or incurred during the taxable year for qualified research expenses.

1 (b) For purposes of this section, the following terms have the
2 following meanings:

3 (1) “Qualified research expenses” means the amount paid or
4 incurred during the taxable year for research, approved and
5 selected by the California Energy Commission under the Public
6 Interest Energy Research Program, on renewable energy
7 technologies.

8 (2) “Renewable energy technologies” means technologies that
9 generate energy from biomass, solar, wind, and hydrogen.

10 (c) Notwithstanding any other law, a taxpayer that takes the
11 credit allowed by this section shall not be allowed other credits
12 allowed under this part for renewable energy technology, except
13 for the credit allowed by Section 17053.98.

14 (d) In the case where the credit allowed by this section
15 exceeds the “net tax,” the excess may be carried over to reduce
16 the “net tax” in the following year, and succeeding years if
17 necessary, until the credit is exhausted.

18 SEC. 10. Section 17277 is added to the Revenue and
19 Taxation Code, to read:

20 17277. In lieu of any other method of depreciation allowed by
21 this part, in the case of any qualified capital expenditures, as
22 defined in Section 17053.97, and any qualified capital
23 investment, as defined in Section 17053.98, the taxpayer may
24 elect to take a deduction for depreciation for the entire amount of
25 these expenditures and investments in three years, commencing
26 with the year the expenditures and investments are paid or
27 incurred and each of the two subsequent years, using the straight
28 line method of depreciation.

29 SEC. 11. Section 23697 is added to the Revenue and
30 Taxation Code, to read:

31 23697. (a) For each taxable year beginning on or after
32 January 1, 2007, there shall be allowed as a credit against the
33 “tax,” as defined in Section 23036, an amount equal to 15 percent
34 of the amount paid or incurred during the taxable year for
35 qualified capital expenditures.

36 (b) For purposes of this section, the following terms have the
37 following meanings:

38 (1) “Qualified capital expenditures” means an engine, boiler,
39 or generator that measurably reduces greenhouse gas emissions
40 from a qualified facility.

1 (2) “Qualified facility” means both of the following:

2 (A) An existing facility of the taxpayer.

3 (B) The expansion of an existing facility of the taxpayer,
4 which expansion is in the same location as, or adjacent to, an
5 existing facility of the taxpayer.

6 (c) In the case where the credit allowed by this section exceeds
7 the “tax,” the excess may be carried over to reduce the “tax” in
8 the following year, and succeeding years if necessary, until the
9 credit is exhausted.

10 SEC. 12. Section 23698 is added to the Revenue and
11 Taxation Code, to read:

12 23698. (a) For each taxable year beginning on or after
13 January 1, 2007, there shall be allowed as a credit against the
14 “tax,” as defined in Section 23036, an amount equal to 10 percent
15 of the amount paid or incurred during the taxable year for
16 qualified capital investments.

17 (b) For purposes of this section, “qualified capital
18 investments” means equipment used to produce, generate, or
19 store energy from renewable resources including, but not limited
20 to, biomass, solar, wind, and hydrogen.

21 (c) Notwithstanding any other law, a taxpayer that takes the
22 credit allowed by this section shall not be allowed other credits
23 allowed under this part for renewable energy technology, except
24 for the credit allowed by Section 23699.

25 (d) In the case where the credit allowed by this section
26 exceeds the “tax,” the excess may be carried over to reduce the
27 “tax” in the following year, and succeeding years if necessary,
28 until the credit is exhausted.

29 SEC. 13. Section 23699 is added to the Revenue and
30 Taxation Code, to read:

31 23699. (a) For each taxable year beginning on or after
32 January 1, 2007, there shall be allowed as a credit against the
33 “tax,” as defined in Section 23036, an amount equal to 15 percent
34 of the amount paid or incurred during the taxable year for
35 qualified research expenses.

36 (b) For purposes of this section, the following terms have the
37 following meanings:

38 (1) “Qualified research expenses” means the amount paid or
39 incurred during the taxable year for research, approved and
40 selected by the California Energy Commission under the Public

1 Interest Energy Research Program, on renewable energy
2 technologies.

3 (2) “Renewable energy technologies” means technologies that
4 generate energy from biomass, solar, wind, and hydrogen.

5 (c) Notwithstanding any other law, a taxpayer that takes the
6 credit allowed by this section shall not be allowed other credits
7 allowed under this part for renewable energy technology, except
8 for the credit allowed by Section 23698.

9 (d) In the case where the credit allowed by this section
10 exceeds the “tax,” the excess may be carried over to reduce the
11 “tax” in the following year, and succeeding years if necessary,
12 until the credit is exhausted.

13 SEC. 14. Section 24349.5 is added to the Revenue and
14 Taxation Code, to read:

15 24349.5. In lieu of any other method of depreciation allowed
16 by this part, in the case of any qualified capital expenditures, as
17 defined in Section 23697, and any qualified capital investment,
18 as defined in Section 23698, the taxpayer may elect to take a
19 deduction for depreciation for the entire amount of these
20 expenditures and investments in three years, commencing with
21 the year the expenditures and investments are paid or incurred
22 and each of the two subsequent years, using the straight line
23 method of depreciation.